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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

United States of America,	)	CV 02-00034-RSWL
	)	
Plaintiff,	)	
	)	ORDER RE: Various
v.	)	Motions
	)	[72, 73, 78, 81]
	)	
\$126,929.17 in U.S.	)	
Currency,	)	
	)	
	)	
Defendant.	)	
	)	
	)	
	)	

On May 7, 2010, Plaintiff's Renewed Motion to Strike "Counter-Claim Common Law Trover" filed by Ching Tse Yu as Docket No. 58 Pursuant to FRCP 12(F), or in the alternative to Correct Docket [72] was filed with this Court. On May 14, 2010, Plaintiff's Motion to Continue Pre-Trial Conference and Trial Date [73] was filed with this Court. On July 6, 2010, Plaintiff's Motion for Order Dismissing the Remainder of the Defendant Currency in this Case (\$92,048.80 in U.S. Currency), Pursuant to Rule 41(A)(2) [78] was

1 filed with this Court. On July 28, 2010, Claimant  
2 Ching Tse Yu's Request that 1) Government's Motion for  
3 Order Dismissing Remainder of Defendant's Currency be  
4 Denied; and 2) Counsel be Assigned to Defendant in this  
5 Case [81] was filed with this Court.

6 These matters were initially set for hearing on  
7 August 3, 2010. Having taken the matters under  
8 submission on July 28, 2010, and having reviewed all  
9 papers submitted pertaining to these motions, **THE COURT**  
10 **FINDS AND ORDERS AS FOLLOWS:**

11 The Court **GRANTS** Plaintiff's Motion for Order  
12 Dismissing the Remainder of the Defendant Currency in  
13 this Case [78].

14 Pursuant to Federal Rule of Civil Procedure  
15 41(a)(2), the Court may issue a voluntary dismissal  
16 with prejudice "on terms that the court considers  
17 proper." Here, the Court finds that Claimants shall  
18 suffers no plain legal prejudice as the result of this  
19 dismissal. Claimants may pursue their legal rights, as  
20 to the assets, in the criminal forfeiture proceeding  
21 now pending in case CR-01-790.

22 As a result of the Court's ruling on the previous  
23 Motion for Dismissal, the Court hereby **DENIES AS MOOT**  
24 Plaintiff's Motion to Continue Pre-Trial Conference and  
25 Trial Date [73]. Furthermore, the Court vacates all  
26 dates presently set in this action.

27 The Court also **DENIES AS MOOT** Claimant Ching Tse  
28 Yu's Request that 1) Government's Motion for Order

1 Dismissing Remainder of Defendant's Currency be Denied;  
2 and 2) Counsel be Assigned to Defendant in this Case  
3 [81]. The Court construes Claimant's Request that  
4 Government's Motion for Order Dismissing Remainder of  
5 Defendant's Currency be Denied as an opposition to  
6 Docket #78. Furthermore, the request for counsel is  
7 likewise mooted by the dismissal ordered herein.

8 Finally, the Court **GRANTS** Plaintiff's Motion to  
9 Strike "Counter-Claim Common Law Trover" filed by Ching  
10 Tse Yu as Docket No. 58 Pursuant to FRCP 12(F), or in  
11 the alternative to Correct Docket [72]. The Court  
12 finds that the document is properly construed as a  
13 response to the pending criminal forfeiture action, CR-  
14 01-790. As such, the Court strikes Docket #58 as  
15 immaterial pursuant to Federal Rule of Civil Procedure  
16 12(f).

17  
18 DATED: August 9, 2010

19  
20 **IT IS SO ORDERED.**

21  
22 **RONALD S.W. LEW**

23 **HONORABLE RONALD S.W. LEW**

24 Senior, U.S. District Court Judge  
25  
26  
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